

### REMARKS

The specification has been amended changing the title to more clearly indicate the nature of the invention. The amendment to the title is not intended to limit the scope of any of the claims herein.

Claims 1, 5, 6, 12, 20, 25, 29, 30, 36, and 39 have been amended. Claims 60-63 have been added. No new matter has been added. Claims 40-59 have been canceled without prejudice to the underlying subject matter. Claims 15-19 were previously withdrawn.

Claims 1-14 and 20-39 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner states that in claim 1, the text “an I-V characteristic” is unclear. Claim 1, and also claims 12, 20, 25, 36, and 39, have been amended to clearly refer to the current-voltage characteristic. Further, the Examiner states that in claims 5, 6, 29, and 30, “a highest first threshold voltage” is indefinite. Claims 5, 6, 29, and 30 have been amended to clarify the relationships between the threshold voltages defined in claims 5, 6, 29, and 30. In light of these amendments, withdrawal of this rejection is respectfully requested.

Claims 1-4, 7, 11-14, 25-28, 31, and 35-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Liu et al., US Patent No. 5,912,836 (“Liu”) in view of Fossum, US Patent No. 6,744,084; Publication No. US 2004/0043529 (“Fossum”). This rejection is respectfully traversed.

The Examiner relies on the combination of Liu and Fossum. However, the Examiner’s use of Fossum is not permitted to preclude patentability under 35 U.S.C. § 103(a) as provided by 35 U.S.C. § 103(c). The subject matter of Fossum and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to the same entity: Micron Technology, Inc. The assignment for the present application was recorded in the PTO on July, 3, 2003, at Reel 014254, Frame 0280. The assignment

Application No.: 10/612,194  
Amendment dated February 9, 2005  
Reply to Office action dated November 22, 2004

Docket No.: M4065.0933/P933

for Fossum was recorded in the PTO on August 29, 2002, at Reel 013243 Frame 0789. Further, the Assignee appears on the face of the Fossum patent. Therefore, 35 U.S.C. § 103(c) applies. As a result, the Examiner's rejection of claims 1-14 and 20-39 based on Fossum cannot be sustained and withdrawal of this rejection is respectfully requested.

Applicant graciously acknowledges the Examiner's indication that claims 5, 6, 8-10, 29, 30, 32-34 contain allowable subject matter. As discussed above, however, Applicant believes that these claims depend from allowable base claims and, therefore, it is not necessary to rewrite these claims in independent form.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: February 9, 2005

Respectfully submitted,

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